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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/027,160

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Kurt A. Estes

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EXAMINER

WEBB, GREGORY E

ART UNIT

PAPER NUMBER

1751

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/26/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/027,160

Applicant(s)

ESTES ET AL.

Examiner

Gregory E. Webb

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 79-81 and 83-88 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 88 is/are allowed.
- 6) ☒ Claim(s) 79-81 and 83-87 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 1206.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

1. The examiner has reviewed the applicant's IDS, arguments, amendments and affidavits.
2. Based on the applicant's arguments regarding the 112 rejections, the examiner agrees to withdrawn previous 112 rejections. However, the examiner again requests that the applicant's disclose which organics solvents would meet the instant functional limitations.
3. Concerning the prior art, the examiner found particularly useful was Exhibit A demonstrating that the prior art fails to meet the applicant's functional limitations.
4. The applicant has shown that the Login, de Jager, Nakamura, Balliett and Smith each fail to meet certain functional descriptions required by the claims.
5. As such previous rejections based on Login, de Jager, Nakamura, Balliett and Smith have been withdrawn.
6. Concerning Flynn, the applicant admits that Flynn teaches non-aqueous, non-reactive, non-oleophilic, apolar solvents.
7. It is not clear why the applicant describes the Flynn reference as teaching "Spot Cleaning." Especially as Flynn's claim 1 reads " 1. A **dry cleaning** process for removing contaminants from the surface of a fabric..."
8. Clearly Flynn meets the dry cleaning limitation.
9. What remains is a lack of teaching by Flynn of the perfume.

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10. The applicant argues and presents in testimony that "To the best of my knowledge, there are no past or present teaching which disclose non-aqueous wash liquors containing a washing additive which includes perfume."

11. There are several reasons why the examiner finds this statement to be incorrect.

12. First, in contrast to the applicant's testimony numerous references teach the addition of perfume to a non-aqueous laundry detergent. The following are just two of many examples.

13. For example Mizutani et al (US 4102824 A) "Non-aqueous detergent composition" teaches the following:

"(19) A lower alkyl glycol ether can be used as an auxiliary component for enhancing the solubilizing rate and controlling the HLB value of the detergent. As preferred examples of such lower alkyl glycol ethers, there can be mentioned propyl cellosolve, propyl carbitol, butyl cellosolve and butyl carbitol. Fluorescent dyes, perfumes, dyes and water can be incorporated in appropriate conventional amounts as auxiliary components in the detergent composition of the present invention."

As another example, Broze et al (US 4,786,431) teach "non-aqueous liquid laundry detergent" (see Field of Invention) and generally teaches additives to improve the aesthetic qualities.

(96) Various other detergent additives or adjuvants may be present in the detergent product to give it additional desired properties, either of functional or aesthetic

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nature. Thus, there may be included in the formulation, minor amounts of soil suspending or anti-redeposition agents, e.g. polyvinyl alcohol, fatty amides, sodium carboxymethyl cellulose, hydroxy-propyl methyl cellulose; optical brighteners, e.g. cotton, amine and polyester brighteners, for example, stilbene, triazole and benzidine sulfone compositions, especially sulfonated substituted triazinyl stilbene, sulfonated naphthotriazole stilbene, benzidine sulfone, etc., most preferred are stilbene and triazole combinations.

(97) Bluing agents such as ultramarine blue; enzymes, preferably proteolytic enzymes, such as subtilisin, bromelin, papain, trypsin and pepsin, as well as amylase type enzymes, lipase type enzymes, and mixtures thereof; bactericides, e.g. tetrachlorosalicylanilide, hexachlorophene; fungicides; dyes; pigments (water dispersible); preservatives; ultraviolet absorbers; anti-yellowing agents, such as sodium carboxymethyl cellulose, complex of C.sub.12 to C.sub.22 alkyl alcohol with C.sub.12 to C.sub.18 alkylsulfate; pH modifiers and pH buffers; color safe bleaches, **perfume**, and anti-foam agents or suds-suppressors, e.g. silicon compounds can also be used.

Second, the applicant is addressing a well-known solution to a well-known problem. It is well-known that laundry accumulates body odors during wear-time. It is a well-known solution that perfumes will mask unpleasant body odors. Thus it is not surprising that the applicant would arrive at a well-known solution to a well-known problem. Nor would it be unexpected that anyone that has worn clothing would arrive at the same solution.

Finally, the examiner maintains that Smith '587 provides sufficient teaching that it is common practice to add a perfume to a laundering composition. For example one need only look to Smith's Background of Invention to see that such problems as malodor are commonplace in dry-cleaning:

(4) Methods for dry-cleaning fabrics commonly employ organic solvents which can readily dissolve or disperse soils such as water-insoluble substances, including greases, oily dirt and the like, and which exhibit low solvent boiling points, enabling easy recovery of the solvents.

(5) The use of solvent-based dry-cleaning methods has, however, been primarily limited to commercial cleaning operations which employ expensive specialized equipment. Such equipment includes stills with condensers to contain vapors from the cleaning solvents, which are often toxic. As a result, to utilize such dry-cleaning processes, particularly to remove water-insoluble spots and/or stains from clothes, the user must bring the clothes to a specialized dry-cleaning establishment and pick up the cleaned clothes at a later date. This results in inconvenient expenditures of time in going to the dry-cleaner, waiting for the clothes to be properly cleaned, picking up the clothes, and dealing with damaged and lost articles of clothing. Moreover, articles of clothing from many different people are dry-cleaned with the same batch of solvent, which can result in malodorous residues. (emphasis added)

Should this not be sufficient the examiner goes on record that "it is a common practice to add perfumes to laundering compositions."

14. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 79-81 and 83-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn et al (US 5,962,390) in view of Smith et al (US 5,238,587).
  2. Flynn et al teach a variety of solvents suitable for dry cleaning applications such as those found in the instant application.
  3. Flynn includes in this list of solvents including the applicant's claimed "working fluid." For example Flynn teaches the use of the fluoroether  $C_4F_9OCH_3$ , also known as HFE-7100, a well-known fluid produced by Minnesota Mining and Manufacturing company, the assignee for the Flynn reference.
  4. Flynn fails to teach the applicant's claimed perfume.
  5. Smith et al (US 5,238,587) teaches a home dry cleaning kit which also contains an ether-based formulations such as those discussed in Flynn (see title and col. 5).
  6. Smith et al further teach the routine inclusion of perfumes in their dry cleaning composition (see cols. 8-9). Smith specifically states the benefit of such fragrances and states that the inclusion of such compounds will function as an insect repellant.
- Thus it would have been obvious based on the teachings of Flynn in view of Smith to include a perfume in an ether-based dry cleaning composition as such additions will as taught by Smith repel insects.

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Claims 79-81 and 83-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn et al (US 5,962,390) in view of Broze et al (US 4,786,431 A).

Flynn is relied upon for those reasons set forth above.

Broze teaches non-aqueous detergent compositions for laundering textiles (see abstract). Broze teaches the use of various additives which can be included to improve the "aesthetic nature." (see col. 15, lines 22-48). Included in this brief list of compounds are perfumes.

As Broze teaches perfumes improves the aesthetic nature of the non-aqueous laundering compositions, it would have been obvious to add a perfume to compositions of Flynn as it is well-known, and taught by Broze, that perfumes improve the aesthetics of non-aqueous laundering compositions.

Claims 79-81 and 83-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn et al (US 5,962,390) in view of Mizutani et al (US 4,102,824 A).

Flynn is relied upon for those reasons set forth above.

Mizutani teaches non-aqueous detergent compositions for laundering textiles (see title).

Mizutani teaches the use of perfumes as conventional ingredients in these non-aqueous compositions (see col. 3, lines 50-60).

As Mizutani teaches perfumes as conventional ingredients in non-aqueous laundering detergents, it would have been obvious to one skilled in the art of laundering to include a perfume in a non-aqueous detergent used for laundering.



***Allowable Subject Matter***

Claim 88 is allowed. The prior art fails to teach or suggest the applicant's claimed fluorine containing compound in combination with the fragrance.

***Conclusion***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory E. Webb whose telephone number is 571-272-1325. The examiner can normally be reached on 9:00-17:30 (m-f).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglass McGinty can be reached on (571)272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'G. Webb', with a large, stylized loop at the beginning.

Gregory E. Webb  
Primary Examiner  
Art Unit 1751

gew